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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,095	11/03/2000	Joe D. Bolding	10003154-1	5036

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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

PALADINI, ALBERT WILLIAM

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 02/20/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/706,095

Applicant(s)

BOLDING ET AL.

Examin r

Albert W Paladini

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
2. Claims 9-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 9**

In lines 3-5, instructions for the device are compared with a predetermined sequence of instructions. Instructions for a device are generally prepared separately from the device, and are not generated by the device. If it is already known that these "instructions for the device" have been prepared for the device recited in the preamble, then a comparison is moot. For example, if one provides instructions on how to operate a specified lathe, and one is handed an unidentified lathe, this instruction set cannot determine of this unidentified lathe is the specified lathe. The instructions are prepared separately, and no actual information comes from the unidentified lathe.

**Claim 17**

In lines 7-8 instructions are received from somewhere, and in lines 9-10 these instructions are compared with a predetermined set of instructions. Instructions for computer hardware are generally prepared separately from the computer hardware, and

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 9-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 9**

In lines 3-5, instructions for the device are compared with a predetermined sequence of instructions. Instructions for a device are generally prepared separately from the device, and are not generated by the device. If it is already known that these "instructions for the device" have been prepared for the device recited in the preamble, then a comparison is moot. For example, if one provides instructions on how to operate a specified lathe, and one is handed an unidentified lathe, this instruction set cannot determine if this unidentified lathe is the specified lathe. The instructions are prepared separately, and no actual information comes from the unidentified lathe.

**Claim 17**

In lines 7-8 instructions are received from somewhere, and in lines 9-10 these instructions are compared with a predetermined set of instructions. Instructions for computer hardware are generally prepared separately from the computer hardware, and

are not generated by the computer hardware. If it is already known that these “instructions for the computer hardware” have been prepared for the computer hardware recited in the preamble, then a comparison is moot. For example, if one provides instructions on how to operate a specified lathe, and one is handed an unidentified lathe, this instruction set cannot determine of this unidentified lathe is the specified lathe. The instructions are prepared separately, and no actual information comes from the unidentified lathe.

In addition, the preamble states that this is a hardware simulator, and not actually hardware, so that any test for “computer hardware” is moot.

### **Claim 22**

In line 2 an instruction sequence is received from somewhere, and in lines 3-4 this instruction sequence is compared with a predetermined instruction sequence. Instructions for computer hardware are generally prepared separately from the computer hardware, and are not generated by the computer hardware. If it is already known that these “instructions for the computer hardware” have been prepared for the computer hardware recited in the preamble, then a comparison is moot. For example, if one provides instructions on how to operate a specified lathe, and one is handed an unidentified lathe, this instruction set cannot determine of this unidentified lathe is the specified lathe. The instructions are prepared separately, and no actual information comes from the unidentified lathe.

In addition, the preamble states that this is a hardware simulator, and not actually hardware, so that any test for "computer hardware" is moot.

### **Claim 23**

The objective of the claim as stated in the preamble is "A method of programming a computer." The first step in line 2 achieves the objective of "writing a computer program for said computer" achieves the objective of the preamble. It is not understood how "executing said executable on a simulation of said computer" contributes to programming the computer. The purpose of executing the written program on the simulation of the computer is not understood. Normally, a computer program is written, and then run on the computer. The purpose and objective of the simulation is not understood.

### **Claim 24**

The objective of the claim as stated in the preamble is "A method of programming a computer." The first step in line 2 achieves the objective of "writing a computer program for said computer" achieves the objective of the preamble. It is not understood how detecting "whether it is executing on said computer or on a simulation of said computer" contributes any limitations to "programming the computer." The purpose and objective of the simulation is not understood.

Appropriate correction and clarification is required.

***Art Rejection***

An art rejection was not provided for claims 9-24 since the objective of the invention, the method of achieving it, and the structure or steps of the operation of the invention are not clearly recited in the claims as explained in paragraphs 1 and 2.

***Allowable Subject Matter***

3. Claims 1-8 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: None of the references cited or the art searched disclose or teach alone or in combination the method of determining whether an electronic device is simulated by storing a first value in a memory location, executing at least one operation on electronic device which causes the data stored in memory to change value if the device is simulated, and does not cause the stored data to change value if the electronic device is not simulated, and using this a basis for comparison.

***Relevant Prior Art***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blake (5574854) discloses a method and apparatus for simulating the execution of a computer program where testers of new operating systems use a simulation by comparing an output of the simulation of an application program under the new

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operating system to see if it correctly compares to the execution of the application program under the old operating system.

Parulkar (6363509) discloses a method and apparatus for functionally testing integrated circuit chips and circuit boards where the simulated response of the design can then be compared to an expected response to determine whether or not the model of a circuit board is functioning correctly. If the model of the circuit board is not functioning correctly, the model is modified. Thereafter, the circuit board is again simulated. The process is repeated until the model of the circuit board functions correctly. In verifying the functionality of the model of the circuit board, numerous functional tests are performed and their responses obtained.

Peng (6490545) discloses a method for simulating behavior of a device for implementing using a hardware and software model where the algorithm simulation subsystem is used to verify the algorithm and compare it with the results of the software and hardware design to provide the algorithm simulation results, which are also in fixed-point data format. The algorithm simulation results are used by and verify and analyze system to output the results.

Kurosaka (6532573) discloses an LSI method to verify an equivalence between a software for realizing a predetermined function and a hardware created data where it is also possible, according to a signal I/O condition defining operation of the hardware, to compare a state of an output signal as a simulation result of the hardware data to a software variable as a simulation result of the software.

6. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (703) 308-2005. The examiner can normally be reached from 7:30 to 3:30 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (703) 308-0538. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Albert W. Paladini  
Primary Examiner  
Art Unit 2125

February 17, 2004